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Crl.O.P.No.16389 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

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THE HON'BLE MR. JUSTICE DR.G.JAYACHANDRAN

Crl.O.P.No.16389 of 2023

and

Crl.M.P.Nos.10443 & 10445 of 2023

P.Balasundaram

... Petitioner

Vs.

State represented by
The Additional Superintendent of Police,
Vigilance and Anti-Corruption,
Cuddalore.

... Respondent

PRAYER:

Criminal Original Petition filed under Section 482 of Cr.P.C.,
to call for the records in C.C.No.18 of 2022 on the file of the Special
Court for Vigilance and Anti-Corruption Cases, Villupuram and quash
the same.

For Petitioner : Mr.Manoj Sreevatsan
for Mr.S.Natarajan

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Criminal Side)



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violation of procedure, particularly, sanction to prosecute this petitioner not obtained from the competent authority, as contemplated under Section 19 of Prevention of Corruption Act.

3. The learned Government Advocate (Criminal Side) appearing for the State submitted that Crores of rupees been misappropriated by the Directors of the Board, in which the petitioner was the elected President and after completion of investigation, final report was filed. The non-cooperation of the accused cannot be taken advantage by them to the alleged delay in completion of investigation. So far as the sanction to prosecute is concerned, the petitioner herein is basically a public servant employed in Transport Department and sanction to prosecute been obtained from the General Manager, Transport Department, who is the competent authority to remove the drivers and conductors in the Tamil Nadu Transport Corporation.

4. However, the learned counsel for the petitioner submitted that offence alleged to have committed by the petitioner herein is not in



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the capacity of conductor, but in the capacity of President of the Multi-State Co-operative Society. Therefore, sanction to prosecute must be from the person competent to remove the President of Multi State Cooperative Society. This Court finds force in the submissions.

5. Learned Government Advocate (Criminal Side) appearing for the respondent filed a detailed counter wherein, he has given undertaking that necessary steps will be taken to get sanction from the authority competent under Multi-State Co-operative Societies Act. It is also pointed out that as per Multi-State Co-operative Societies Act, the President is removable by the Board of Directors. But, in this case, the then Board of Directors themselves are arrayed as accused. Therefore, the Central Registrar is the competent person to accord sanction and the State will take all endeavours to get sanction to prosecute. Section 19(3) of the Prevention of Corruption of Act provides way for the prosecuting agency to rectify the error regarding sanction to prosecute.



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6. Under the above facts and circumstances, this Criminal Original Petition is disposed of with a direction to the trial Court not to proceed, till proper sanction from the competent authority is produced by the investigating agency. The cognizance taken is declared as void. The Trial Court is further directed to take cognizance after production of the sanction order from the competent authority.

7. Accordingly, the Criminal Original Petition is disposed of. Consequently connected miscellaneous petitions are closed.

10.08.2023

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To

1. The Special Judge,
Special Court for Vigilance and Anti-Corruption Cases,
Villupuram.
2. The Additional Superintendent of Police,
Vigilance and Anti-Corruption,
Cuddalore.
3. The Public Prosecutor
High Court of Madras.



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DR.G.JAYACHANDRAN,J.,

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